

REMARKS

The Applicants have studied the Office Action mailed June 25, 2007 and have made amendments to the claims. Claims 3, 10, and 16 are amended. No new claims are added. By virtue of this amendment, claims 3-7, 10-14 and 16-20 are pending. It is submitted that the application, as amended, is in condition for allowance. Reconsideration and allowance of the pending claims in view of the above amendments and the following remarks are respectfully requested. In the Office Action the Examiner:

In the Office Action, the Examiner:

- rejected claims 3, 6-8, and 13-14 under 35 U.S.C. § 103(a) as being unpatentable over Sundaresan (U.S. Patent No. 7,099,833) in view of Cansler et al. (U.S. 6,725,257) and in further view of Reuhl et al. (U.S. 5,873,069); and
- rejected claims 4, 5, 11, 12, 17 and 18 under 35 U.S.C. § 103(a) as being unpatentable over Sundaresan (U.S. Patent No. 7,099,833) in view of Cansler et al. (U.S. 6,725,257) and Reuhl et al. (U.S. 5,873,069) and in further view of further in view of Maritzen et al. (US 2002/0052797).

Rejection of Claims Under 35 U.S.C. §103(a) in view of Sundaresan, Cansler, and

Reuhl

As noted above, the Examiner rejected claims 3, 6-8, and 13-14 under 35 U.S.C. § 103(a) as being unpatentable over Sundaresan (U.S. Patent No. 7,099,833) in view of Cansler et al. (U.S. 6,725,257) and in further view of Reuhl et al. (U.S. 5,873,069). Independent claims 3, 10, and 16 have been amended to distinguish over Sundaresan taken alone and/or in view of Cansler and/or in view of Reuhl. Specifically independent claim 3 recites *inter alia*

A method on a web site offering at least one of a product and/or a service for sale for pricing the product and/or service, the method comprising:

receiving an order at a first web site directly from a buyer for a product and/or service for sale on the first web site, wherein the

product and/or service is available for purchase in one or more configurations;

instructing at least one web-crawler to query at least a second website for retrieving at least one competitor's pricing information for each of the configurations;

reading the at least one competitor's pricing information collected from the at least second web site for each of the configurations;

before presenting a selling price the buyer using the first website, calculating the selling price for each of the configurations of the product and/or service based on the competitor's price as follows:

in response to the competitor's price being higher than a highest price that a market will bear, set the selling price to the highest price that the market will bear;

in response to the competitor's price being; i) lower than the highest price that the market will bear and ii) higher than a lowest profitable price at the first web site, set the selling price at the competitor's price;

in response to the competitor's price being lower than the lowest profitable price at the first web site, set the selling price at the lowest profitable price; and

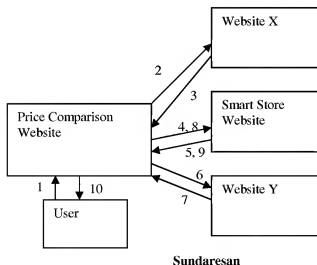
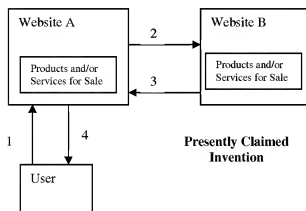
presenting each of the configurations of the product and/or service which has been ordered for the selling price which has been calculated based on the competitor's price.

Support for this amendment is found at pages 7 and 13, lines 2-9 and 13-18, respectively. No new matter has been added.

Sundaresan discloses a system and method for assisting a user in comparing prices for products or services offered by e-commerce sites. In particular, Sundaresan teaches that a user electronically visits a comparison shopping site ("CompShop"), and inquires about an item. The CompShop service is initiated and a query on a plurality of electronic is performed. The CompShop service handles price query at each site. Sundaresan also teaches that as a result of running a comparison query at the CompShop a static price is returned for each site queried and if a site is a "smart store" a modified price can be CompShop asking for comparative prices of item in question. The smart store can then determine whether the asking price is the best price that can be offered. If the smart store determines that its asking price is the best price it can offer, it returns its stander price to the CompShop site. However, if the smart store can

offer a better price, it adjusts its price to a more competitive price, which is returned to the CompShop site. The CompShop site then displays a plurality of prices for the queried item so the user can make an informed decision as to which e-commerce site offers the best price for the item in question.

The presently claimed invention, on the other hand, is directed to the actual website that is offering products and/or services for sale that the user is interacting with. In other words, a user is not using a third-party website. The diagrams below illustrate the main differences between Sundaresan and the presently claimed invention.



The first figure is an example of the presently claimed invention. A user at **1** submits an order to Website A for a product and/or service. Either prior to the order being submitted, during the order, or after the order, Website A at **2** instructs a web-crawler to find competitor pricing information on one or more configurations of the product/services ordered by the user. The Website A at **3** receives the competitor information and can then dynamically adjust the price for the product/service in question based on the competitors' pricing and/or user information. The price of the ordered product/service at **4** is then displayed to the user.

Sundaresan, on the other hand, utilizes a third-party website for comparison shopping. For example, a user at **1** types in a product or service name at the Price Comparison Website to obtain a list of prices for the product or service from various on-line vendors similar to Froogle, Pricegrabber, Bizrate, Nextag, and other well known price comparison sites. The Price Comparison Website at **2, 4, and 6** submits price queries to Website X, Smart Store Website, and Website Y. Each of these sites at **3, 7, and 9** return a price for the item in question. As discussed above, the Smart Store at **5** requests the other Websites' pricing information from the Price Comparison Website. The Price Comparison Website at **8** returns this information and the Smart Store at **9** returns an optionally modified price. The user at **10** is then displayed all of the prices from the various on-line vendors.

As can be seen from the above diagrams the actual website where the user has placed an order directly retrieves competitive pricing information from other websites and can then modify pricing information accordingly. In Sundaresan, a user never places an order. The website that the user visits is only a price comparison website where a user enters information to obtain pricing information, not order a product and/or service. Furthermore, a Smart Store in Sundaresan never receives a direct order from a user. Instead, the Smart Store receives a request for pricing information from a price comparison website and then receives pricing information from the price comparison website. The Smart Store never instructs a web-crawler to obtain competitive pricing information. The Smart Store, only request pricing information once a comparison site

queries it for pricing information. The price comparison website has already obtained pricing information prior to the smart store website determining it wants the pricing information.

The Examiner is respectfully reminded that the entire process of claim 1 is occurring on "a web site offering at least one of a product and/or a service for sale for pricing the product and/or service". Sundaresan and the Examiner's arguments are based on processes that occur across multiple different systems (e.g., the Examiner states on page 3 of the present Office Action "note that CompShop reads prices from a plurality of stores and an "eStore" is capable of reading competitor's prices by collecting information from Compshop").

Furthermore, the Examiner states on page 3 of the present office action that Sundaresan teaches "before presenting a selling price to a buyer using the first website, calculating the selling price for each of the configurations of the product and/or service based on the competitor's price (col. 4, lines 1-12) such that in response to the competitor's price being lower than the lowest profitable price at the first website, setting the selling price at the lowest profitable price (col. 4, lines 7-11)". Col. 4, lines 12 merely state that the smart store looks at the pricing information received from the comparison site and determines if it can afford to offer a lower price based on the comparison and its own cost price and required profit margin. If so, the smart store offers a lower price.

In other words, Sundaresan merely compares its current price to the competitors' prices and determines if it is offering the lowest price. The presently claimed invention on the other hand, compares the competitor's price to its lowest profitable price. This is not the same as comparing a competitor's price to a current price. Furthermore, the presently claimed invention then sets its price to its lowest profitable price if the competitor's prices is lower than the lowest profitable price. Sundaresan does not teach this, Sundaresan merely teaches that the smart-store lowers its price if it can afford to which does not necessarily mean that the smart store lowers its prices to its lowest

profitable price. Accordingly, the presently claimed invention distinguishes over Sundaresan for at least these reasons.

The Examiner further states on page 3 of the present office action that Sundaresan teaches “presenting each of the configurations of the product and/or service which has been ordered for the selling price which has been calculated based on the competitor’s price (col. 4, lines 13-17). Sundaresan at this citation and everywhere else only teaches that the user is shown prices for the same item across multiple on-line vendors. This is completely different than being “presenting each of the configurations of the product and/or service which has been ordered for the selling price which has been calculated based on the competitor’s price”. Accordingly, the presently claimed invention distinguishes over Sundaresan for at least this reason as well.

The Examiner correctly states on page 4 of the present Office Action that “Sundaresan does not explicitly disclose wherein the product and/or service is available for purchase in a plurality of configurations.” However, the Examiner goes on to state that “a product available for purchase is a plurality of configurations is similar to a plurality of products. For example, Cansler, in the same field of endeavor and/or pertaining to the same issue, discloses a method and system for configuring products wherein the product is available for purchase in a plurality of configurations (*see, at least*, Abstract). Once a configuration for a product is chosen, it is essentially a specific or customized product. Therefore, selecting, receiving, and calculating prices for a plurality of products is equivalent to selecting, reading, and calculating prices for a plurality of configurations.”

However, Cansler merely teaches that a user submits a request for a base configuration with standard attributes. The user receives standard attribute set and a plurality of web pages including an option set. The option set comprises all possible optional attributes and a set of commands for selecting the optional attributes. Therefore, Sundaresan alone or in combination with Cansler does not teach or suggest the presently claimed invention.

The Examiner also correctly states on page 5 of the present Office Action that Sundaresan "does not explicitly teach in response to competitor's price being higher than a highest price that a market will bear, set the selling price to the highest price that the market will bear and in response to the competitor's price being; i) lower than the highest price that the market will bear and ii) higher than a lowest profitable price at the first web site, set the selling price at the competitor's price." However, the Examiner goes on to combine Sundaresan with Reuhl in the same field of endeavor and/or pertaining to the same issue, teaches a method and system for updating and displaying retail prices, including wherein the prices are calculated based on competitors' prices and price factors such that in response to competitor's price being higher than a highest price that a market will bear, set the selling price to the highest price that the market will bear and in response to the competitor's price being; i) lower than the highest price that the market will bear and ii) higher than a lowest profitable price at the first web site, set the selling price at the competitor's price (col. 11, lines 34-43 and line 64 through col. 12, line 27 — note the highest price the market will bear is the active user price".

However, Sundaresan alone, and/or in combination with Cansler, and/or in combination with Reuhl is completely silent on "A method on a web site offering at least one of a product and/or a service for sale for pricing the product and/or service, the method comprising: receiving an order at a first web site directly from a buyer for a product and/or service for sale on the first web site, wherein the product and/or service is available for purchase in one or more configurations; instructing at least one web-crawler to query at least a second website for retrieving at least one competitor's pricing information for each of the configurations; reading the at least one competitor's pricing information collected from the at least second web site for each of the configurations; before presenting a selling price the buyer using the first website, calculating the selling price for each of the configurations of the product and/or service based on the competitor's price as follows: in response to the competitor's price being higher than a highest price that a market will bear, set the selling price to the highest price that the market will bear; in response to the competitor's price being; i) lower than the highest price that the

market will bear and ii) higher than a lowest profitable price at the first web site, set the selling price at the competitor's price; in response to the competitor's price being lower than the lowest profitable price at the first web site, set the selling price at the lowest profitable price; and presenting each of the configurations of the product and/or service which has been ordered for the selling price which has been calculated based on the competitor's price".

Independent claims 10 and 16 have been amended to recite similar limitations as independent claims 3. The Applicant believes that independent claims 10 and 16 of the present invention distinguishes over Sundaresan alone, and/or in combination with Cansler, and/or in combination with Reuhl for at least this reason as well for the same reasons set forth hereinabove. Accordingly, the Applicant respectfully submits that the Examiner's rejection under 35 U.S.C. §103(a) has been overcome.

For the foregoing reasons, independent claims 3, 10, and 16 distinguish over Sundaresan alone, and/or in combination with Cansler, and/or in combination with Reuhl. Claims 3, 4-7, 11-14, 16, and 17-20 depend from claims 1 and 10 respectively, since dependent claims contain all the limitations of the independent claims, claims 6-7, 13, 14, 16, and 19-20 distinguish over Sundaresan take alone and/or in view of Cansler, and Reuhl as well, and the Examiner's rejection should be withdrawn.

**Rejection of Claims Under 35 U.S.C. §103(a) in view of Sundaresan/Cansler/Reuhl
and Maritzen**

As noted above, the Examiner rejected claims 4, 5, 11, 12, 17 and 18 under 35 U.S.C. § 103(a) as being unpatentable over Sundaresan (U.S. Patent No. 7,099,833) in view of Cansler et al. (U.S. 6,725,257) and Reuhl et al. (U.S. 5,873,069) and in further view of further in view of Maritzen et al. (US 2002/0052797). The Applicants believe that the amended independent claims 3, 10, and 16 of the present invention should be allowed for at least the reasons previously stated hereinabove. Claims 4, 5, 11, 12, 17 and 18 depend from claims 3, 10 and 16 respectively. Since dependent claims contain all the

limitations of the independent claims, claims 4, 5, 11, 12, 17 and 18 distinguish over Sundaresan take alone and/or in view of Cansler and/or Reuhl and/or in view of Maritzen, as well, and the Examiner's rejection should be withdrawn.

The prior art made of record and not, relied upon was reviewed by the Applicant and is not considered pertinent to Applicants' disclosure.

CONCLUSION

In this Response, Applicants have amended certain claims. In light of the Office Action, Applicants believe these amendments serve a useful clarification purpose, and are desirable for clarification purposes, independent of patentability. Accordingly, Applicants respectfully submit that the claim amendments do not limit the range of any permissible equivalents.

Applicants acknowledge the continuing duty of candor and good faith to disclosure of information known to be material to the examination of this application. In accordance with 37 CFR § 1.56, all such information is dutifully made of record. The foreseeable equivalents of any territory surrendered by amendment is limited to the territory taught by the information of record. No other territory afforded by the doctrine of equivalents is knowingly surrendered and everything else is unforeseeable at the time of this amendment by the Applicants and their attorneys.

Applicants respectfully submit that all of the grounds for rejection stated in the Examiner's Office Action have been overcome, and that all claims in the application are allowable. No new matter has been added. It is believed that the application is now in condition for allowance, which allowance is respectfully requested.

The Commissioner is hereby authorized to charge any fees that may be required or credit any overpayment to Deposit Account 50-0510.

PLEASE CALL the undersigned attorney at (561) 989-9811 should the Examiner believe a telephone interview would help advance prosecution of the application.

Respectfully submitted,

Date: September 25, 2007

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